

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KENNETH TRUEBLOOD,  
Petitioner,

v.

WARDEN, MARILYN BROOKS,  
Respondent.

Civil Action No. 05-369 Erie

**MEMORANDUM ORDER**

This petition for writ of habeas corpus was received by the Clerk of Court on December 20, 2005 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on February 28, 2007, recommended that the respondent's motion to dismiss this petition for writ of habeas corpus [Document No. 13] be granted and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at SCI. Albion, where he is incarcerated, and on Respondent. Petitioner has filed no objections to Magistrate Judge Baxter's Report and Recommendation. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 16<sup>th</sup> day of March, 2007;

IT IS HEREBY ORDERED that the Respondent's Motion to Dismiss [13] is GRANTED, and that a certificate of appealability be denied.

The Report and Recommendation of Magistrate Judge Baxter, filed on February 28, 2007, is adopted as the opinion of the Court.

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Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge